

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
NO. 7:15-CV-225-BO

GREGORY P. WILLIAMS,  
Plaintiff,

v.

CAROLYN COLVIN,  
Acting Commissioner of Social Security,  
Defendant.

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**ORDER**

This matter is before the Court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Robert T Numbers, II, pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b). [DE 28]. The Court ADOPTS the M&R.

**BACKGROUND**

Plaintiff filed this action pro se appealing the denial of his application for benefits under the Social Security Act. By order entered December 21, 2015, the Court referred this matter to Magistrate Judge Numbers for frivolity review and, if necessary, entry of a memorandum and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). [DE 11]. Magistrate Judge Numbers determined that the complaint was not frivolous. [DE 12]. Defendant answered, and plaintiff was sent a notice regarding when to file his motion for judgment on the pleadings. [DE 25]. Plaintiff failed to do so, and Magistrate Judge Numbers entered an order directing plaintiff to file his motion by August 18, 2016. [DE 27]. The Order further warned Plaintiff that his failure to comply with the Order could result in dismissal of the case, without prejudice, both for failing to prosecute and for failing to comply with an Order of Court. [DE 27]. Plaintiff neither filed his motion nor requested additional time within which to do so. Accordingly, pursuant to

Rule 41(b) of the Federal Rules of Civil Procedure, Magistrate Judge Numbers recommended that the complaint be dismissed without prejudice. [DE 28].

Plaintiff was given 14 days to object to the M&R but failed to do so.

#### DISCUSSION


A district court is required to review de novo those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

The M&R recommends that plaintiff’s complaint be dismissed without prejudice. As noted above, no party has objected to the M&R and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the memorandum and recommendation is ADOPTED.

#### CONCLUSION

The court ADOPTS the Magistrate Judge’s M&R. [DE 28]. Accordingly, plaintiff’s complaint is DISMISSED without prejudice. The clerk is DIRECTED to close the case.

SO ORDERED, this 16 day of December, 2016.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE